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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,903	10/12/2001	Thomas J. Murray	79069ADAN	2305

7590 10/31/2006

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EXAMINER

BRINICH, STEPHEN M

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,903

Applicant(s)

MURRAY ET AL.

Examiner

Stephen M. Brinich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10,12-15,23-26,28-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10,12-15,23-26,28,29 and 35-37 is/are allowed.
- 6) ☒ Claim(s) 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The drawings were received on 10/21/01. These drawings are acceptable.

Response to Arguments

2. Applicant's arguments in the Response filed 8/7/06 (page 8, line 7 - page 9, line 6) with respect to claims 1-6, 8-10, 12-26, & 30-34 have been fully considered and are persuasive. The rejection of claims 1-6, 8-10, 12-15, 23-26, & 30-33 under 35 USC §103 has been withdrawn. The rejections of claims 16-22 & 34 have been obviated by their cancellation.

However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC §112 and 35 USC §101.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 30-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 30, line 6 and claim 32, line 4 recite that "the digitally enhanced rendering is adjusted"; however, the invention as defined in the Specification indicates that the unenhanced image, not the "digitally enhanced rendering", is the image that is subjected to adjustment.

Claim Rejections - 35 USC § 101

Claims 32-33, insofar as they are understood, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 32-33 are drawn to non-functional descriptive material (an image print).

Claims 32-33 currently recite(s) an image print. There is no functional relationship imparted by this data to a computing device. Therefore, the claim is drawn to non-functional descriptive material which is non-statutory per se. The fact that the claim recites a computer readable medium does not provide the utility (i.e., practical application in the technological arts) required under 35 U.S.C. 101 for the manufacture.

Allowable Subject Matter

5. Claims 1-10, 12-15, 23-26, 28-29, & 35-37 are allowed.
6. Claims 30-33, insofar as they are understood and insofar as they may be described in terms of statutory subject matter, would be allowable if rewritten or amended to overcome the

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rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. The following is a statement of reasons for the indication of allowable subject matter:

As noted above, Applicant's arguments in the Response filed 8/7/06 (page 8, line 7 - page 9, line 6) have been fully considered and are persuasive.

Conclusion

8. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 571-272-1000.

The examiner can normally be reached on weekdays 8:00-5:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

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Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.



Stephen M Brinich
Examiner
Technology Division 2625

smb
October 27, 2006